

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**STEPHEN D. FREEL,**

**Plaintiff,**

**VS.**

**UNITED STATES OF AMERICA,**

**Defendant.**

**CASE NO. 8:04CV147**

## ORDER

This matter is before the Court on the Defendant's Motion to Exclude Expert Testimony and for Summary Judgment (Filing No. 53) and upon the Plaintiff's Motion to Strike the Defendant's motions as untimely (Filing No. 56). The Defendant's motion, which was filed on the eve of trial, is untimely under the progression orders of this Court, and Defendant has failed to show good reason for the delay. Plaintiff's motion to strike will be granted. Whatever objections the Defendant may have to the testimony of William W. Smith, M.D. may be asserted at trial. Accordingly,

IT IS ORDERED:

- 1) The Clerk of the Court is directed to strike the Defendant's Motion to Exclude Expert Testimony and for Summary Judgment (Filing No. 53) because it is untimely; and
- 2) Plaintiff's Motion to Strike (Filing No. 56) is granted.

DATED this 27<sup>th</sup> day of October, 2005.

BY THE COURT

s/Laurie Smith Camp  
United States District Judge